

HOUSE BILL No. 1037

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-6-2; IC 34-30-4.5.

Synopsis: Civil immunity for volunteers. Grants a volunteer immunity from liability for civil damages resulting from an act or omission of the volunteer, except for an act or omission related to the operation of a motor vehicle. Limits a volunteer's maximum civil liability resulting from the volunteer's operation of a motor vehicle to the limits of the insurance coverage maintained by or for the volunteer.

Effective: July 1, 2004.

Frizzell

January 13, 2004, read first time and referred to Committee on Judiciary.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1037

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-6-2-49, AS AMENDED BY P.L.133-2002,
2 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 49. (a) "Governmental entity", for purposes of
4 section 91 of this chapter, IC 34-13-2, IC 34-13-3, and IC 34-13-4,
5 means the state or a political subdivision of the state.

6 **(b) "Governmental entity", for purposes of IC 34-30-4.5, means**
7 **an entity that exercises any of the governmental powers of:**

8 **(1) the state;**

9 **(2) a political subdivision (as defined in IC 36-1-2-13); or**

10 **(3) another local governmental entity.**

11 **The term includes a task force, an elected official, and an**
12 **association of governmental officials or entities.**

13 SECTION 2. IC 34-6-2-88.4 IS ADDED TO THE INDIANA CODE
14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2004]: Sec. 88.4. "Nonprofit corporation", for purposes of
16 section 150 of this chapter and IC 34-30-4.5, means a corporation
17 that is exempt from federal income taxation under Section 501(c)



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of the Internal Revenue Code.

SECTION 3. IC 34-6-2-88.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 88.5. "Nonprofit organization", for purposes of section 150 of this chapter and IC 34-30-4.5, means an organization that is exempt from federal income taxation under Section 501(c) of the Internal Revenue Code.**

SECTION 4. IC 34-6-2-150 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 150. (a) "Volunteer", for purposes of IC 34-30-19, means an individual who, without compensation, engages in or provides other personal services for a sports or leisure activity such as baseball, basketball, football, soccer, hockey, volleyball, cheerleading, or other similar sports or leisure activities involving children who are less than sixteen (16) years of age.**

(b) "Volunteer", for purposes of IC 34-30-4.5, means an individual performing services for a:

- (1) nonprofit organization;**
- (2) nonprofit corporation;**
- (3) hospital; or**
- (4) governmental entity;**

without compensation other than reimbursement for the actual expenses of the individual. The term includes a volunteer serving as a director, an officer, a trustee, or a direct service volunteer.

SECTION 5. IC 34-30-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 4.5. Charities: Immunity for Volunteers

Sec. 1. Except as otherwise provided in this chapter, a volunteer is not liable for civil damages as a result of an act or omission of the volunteer if:

- (1) the volunteer was acting in good faith and within the scope of the volunteer's official functions and duties for a nonprofit organization, nonprofit corporation, hospital, or governmental entity at the time of the act or omission; and**
- (2) the damage or injury resulting from the act or omission was not caused by willful or wanton misconduct by the volunteer.**

Sec. 2. This chapter does not exempt a hospital from liability that the hospital would otherwise incur for the negligent act of a volunteer.

Sec. 3. Section 1 of this chapter does not grant immunity to a volunteer for an act or omission involving the operation of a motor

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1 vehicle. However, the liability of a volunteer for civil damages as
2 a result of the volunteer's negligent operation of a motor vehicle
3 while acting in good faith and within the scope of the volunteer's
4 official functions and duties for a nonprofit organization, nonprofit
5 functions and duties for a nonprofit organization, on profit
6 corporation, hospital, or governmental entity does not exceed the
7 limits of the applicable insurance coverage maintained by or on
8 behalf of the volunteer with respect to the negligent operation of a
9 motor vehicle in the circumstances.

10 SECTION 6. [EFFECTIVE JULY 1, 2004] IC 34-30-4.5, as added
11 by this act, applies to all civil actions commenced after June 30,
12 2004, regardless of when the cause of action accrued.

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